

First Published in The Wichita Eagle on July 15, 2005

ORDINANCE NO. 46-614

AN ORDINANCE AMENDING SECTION 5.42.020 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO THE CRIME OF GIVING A WORTHLESS CHECK AND REPEAL OF THE ORIGINAL SECTION 5.42.020.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

**Section 1.** 5.42.020 of the Code of the City of Wichita, Kansas, shall read as follows

- (1) Giving a worthless check is the making, drawing, issuing, or delivering or causing or directing the making, drawing, issuing or delivering of any check, order or draft on any bank, credit union, savings and loan association or depository for the payment of money or its equivalent with intent to defraud and knowing, at the time of the making, drawing, issuing or delivering of such check, order or draft, that the maker or drawer has no deposit in or credits with the drawee or has not sufficient funds in, or credits with, the drawee for the payment of such check, order or draft in full upon its presentation.
- (2) Subsection (1) shall apply if the check, draft or order is drawn for less than one thousand dollars.
- (3) In any prosecution against the maker or drawer of a check, order or draft, payment of which has been refused by the drawee on account of insufficient funds, the making, drawing, issuing or delivering of such check shall be prima facie evidence of intent to defraud and of knowledge of insufficient funds in, or on deposit with the drawee; (a) unless the maker or drawer pays the holder thereof the amount due thereon and a service charge not exceeding Thirty dollars for each check, within seven days after notice has been given to the maker or drawer that such check, draft or order has not been paid by the

drawee; or (b) if a postdated date is placed on the check, order or draft without the knowledge or consent of the payee. As used in this section, the word "notice" includes oral or written notice to the person entitled thereto. Written notice shall be presumed to have been given when deposited as restricted matter in the United States mail, addressed to the person to be given notice at such person's address as it appears on such check, draft or order.

(4) It shall not be a defense to a prosecution under this section that the check, draft or order upon which such prosecution is based:

(a) Was postdated, unless such check, draft or order was presented for payment prior to the posted date; or

(b) Was given to a payee who had knowledge or had been informed when the payee accepted such check, draft or order, that the maker did not have sufficient funds in the hands of the drawee to pay such check, draft or order upon presentation, unless such check, draft or order was presented for payment prior to the date the maker informed the payee there would be sufficient funds.

(5) Penalty. Any person convicted of giving a worthless check is guilty of a misdemeanor and shall be punished by a fine not to exceed two thousand five hundred dollars or by imprisonment for not more than one year or by both such fine and imprisonment.

**Section 2.** The original of Section 5.42.020 of the Code of the City of Wichita, Kansas, is hereby repealed.

**Section 3.** This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this 28<sup>th</sup> day of June, 2005.

---

Carlos Mayans, Mayor

ATTEST:

---

Karen Sublett, City Clerk

Approved as to Form:

---

Gary Rebenstorf  
Director of Law